

107TH CONGRESS
1ST SESSION

H. R. 3131

To amend the Internal Revenue Code of 1986 to allow a United States independent film and television production wage credit.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 16, 2001

Mr. DREIER (for himself, Mr. RANGEL, Mr. BERMAN, Mr. FOLEY, Mr. MATSUI, Mr. WELLER, Mr. BECERRA, Ms. DUNN of Washington, Mr. CONDIT, Mrs. BONO, Mr. WEINER, Mr. MCINTYRE, Ms. MCCARTHY of Missouri, and Mr. JEFFERSON) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to allow a United States independent film and television production wage credit.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “United States Inde-
5 pendent Film and Television Production Incentive Act of
6 2001”.

1 **SEC. 2. TAX INCENTIVES FOR QUALIFIED UNITED STATES**
2 **INDEPENDENT FILM AND TELEVISION PRO-**
3 **DUCTION.**

4 (a) IN GENERAL.—Subpart D of part IV of sub-
5 chapter A of chapter 1 (relating to business related cred-
6 its) is amended by adding at the end the following new
7 section:

8 **“SEC. 45G. UNITED STATES INDEPENDENT FILM AND TELE-**
9 **VISION PRODUCTION WAGE CREDIT.**

10 “(a) AMOUNT OF CREDIT.—

11 “(1) IN GENERAL.—For purposes of section 38,
12 the United States independent film and television
13 production wage credit determined under this section
14 with respect to any taxpayer for any taxable year is
15 an amount equal to 25 percent of the qualified
16 wages paid or incurred per qualified United States
17 independent film and television production during
18 such taxable year.

19 “(2) HIGHER PERCENTAGE FOR PRODUCTION
20 EMPLOYMENT IN CERTAIN AREAS.—In the case of
21 qualified employees in any qualified United States
22 independent film and television production located in
23 an area eligible for designation as a low-income com-
24 munity under section 45D or eligible for designation
25 by the Delta Regional Authority as a distressed
26 county or isolated area of distress, paragraph (1)

1 shall be applied by substituting ‘35 percent’ for ‘25
2 percent’.

3 “(b) ONLY FIRST \$25,000 OF WAGES PER PRODUC-
4 TION TAKEN INTO ACCOUNT.—With respect to each quali-
5 fied United States independent film and television produc-
6 tion, the amount of qualified wages paid or incurred to
7 each qualified employee or personal service corporation
8 which may be taken into account per such production shall
9 not exceed \$25,000.

10 “(c) QUALIFIED WAGES.—For purposes of this
11 section—

12 “(1) IN GENERAL.—The term ‘qualified wages’
13 means—

14 “(A) any wages paid or incurred by an em-
15 ployer for services performed in the United
16 States by an employee while such employee is a
17 qualified employee,

18 “(B) the employee fringe benefit expenses
19 of the employer allocable to such services per-
20 formed by such employee,

21 “(C) any payments made to personal serv-
22 ice corporations as defined in section
23 269A(b)(1) for services performed in the United
24 States, and

1 “(D) remuneration, other than wages, for
2 services personally rendered in the United
3 States.

4 “(2) QUALIFIED EMPLOYEE.—

5 “(A) IN GENERAL.—The term ‘qualified
6 employee’ means, with respect to any period,
7 any individual who renders personal services if
8 substantially all of such services are performed
9 during such period in an activity related to any
10 qualified United States independent film and
11 television production.

12 “(B) CERTAIN INDIVIDUALS NOT ELIGI-
13 BLE.—Such term shall not include—

14 “(i) any individual described in sub-
15 paragraph (A), (B), or (C) of section
16 51(i)(1), and

17 “(ii) any 5-percent owner (as defined
18 in section 416(i)(1)(B).

19 “(3) COORDINATION WITH OTHER WAGE CRED-
20 ITS.—No credit shall be allowed under any other
21 provision of this chapter for wages paid to any em-
22 ployee during any taxable year if the employer is al-
23 lowed a credit under this section for any of such
24 wages.

1 “(4) WAGES.—The term ‘wages’ has the same
2 meaning as when used in section 51.

3 “(5) EMPLOYEE FRINGE BENEFIT EXPENSES.—
4 The term ‘employee fringe benefit expenses’ means
5 the amount allowable as a deduction under this
6 chapter to the employer for any taxable year with re-
7 spect to—

8 “(A) employer contributions under stock
9 bonus, pension, profit-sharing, or annuity plan,

10 “(B) employer-provided coverage under
11 any accident or health plan for employees, and

12 “(C) the cost of life or disability insurance
13 provided to employees.

14 Any amount treated as wages under paragraph
15 (1)(A) shall not be taken into account under this
16 subparagraph.

17 “(d) QUALIFIED UNITED STATES INDEPENDENT
18 FILM AND TELEVISION PRODUCTION.—For purposes of
19 this section—

20 “(1) IN GENERAL.—The term ‘qualified United
21 States independent film and television production’
22 means any production of any motion picture (wheth-
23 er released theatrically or directly to video cassette
24 or any other format), television or cable program-
25 ming, mini series, episodic television, movie of the

1 week, or pilot production for any of the preceding
2 productions if—

3 “(A) 75 percent of the total wages of the
4 production are qualified wages,

5 “(B) the production is created primarily
6 for use as public entertainment or for edu-
7 cational purposes, and

8 “(C) the total cost of wages of the produc-
9 tion is more than \$200,000 but less than
10 \$10,000,000.

11 Such term shall not include any production if
12 records are required under section 2257 of title 18,
13 United States Code, to be maintained with respect
14 to any performer in such production (reporting of
15 books, films, etc. with sexually explicit conduct). For
16 purposes of subparagraph (A), no day of photog-
17 raphy shall be considered a day of principal photog-
18 raphy unless the cost of wages for the production for
19 that day exceeds the average daily cost of wages for
20 such production.

21 “(2) PUBLIC ENTERTAINMENT.—The term
22 ‘public entertainment’ includes a motion picture
23 film, video tape, or television program intended for
24 initial broadcast via the public broadcast spectrum
25 or delivered via cable distribution, or productions

1 that are submitted to a national organization in ex-
2 istence on July 27, 2001, that rates films for violent
3 or adult content. Such term does not include any
4 film or tape the market for which is primarily top-
5 ical, is otherwise essentially transitory in nature, or
6 is produced for private noncommercial use.

7 “(3) INFLATION ADJUSTMENT.—

8 “(A) IN GENERAL.—In the case of any
9 taxable year beginning in a calendar year after
10 2001, the \$10,000,000 amount contained in
11 paragraph (1)(C) shall be increased by an
12 amount equal to—

13 “(i) such dollar amount, multiplied by

14 “(ii) the cost-of-living adjustment
15 under section 1(f)(3) for the calendar year
16 in which the taxable year begins, deter-
17 mined by substituting ‘calendar year 2000’
18 for ‘calendar year 1992’ in subparagraph
19 (B) thereof.

20 “(B) ROUNDING.—If any increase deter-
21 mined under subparagraph (A) is not a multiple
22 of \$500,000, such amount shall be rounded to
23 the nearest multiple of \$500,000.

24 “(e) CONTROLLED GROUPS.—For purposes of this
25 section—

1 “(1) all employers treated as a single employer
2 under subsection (a) or (b) of section 52 shall be
3 treated as a single employer for purposes of this
4 subpart, and

5 “(2) the credit (if any) determined under this
6 section with respect to each such employer shall be
7 its proportionate share of the wages giving rise to
8 such credit.

9 “(f) APPLICATION OF CERTAIN OTHER RULES.—For
10 purposes of this section, rules similar to the rules of sec-
11 tion 51(k) and subsections (c) and (d) of section 52 shall
12 apply.”.

13 (b) CREDIT TREATED AS BUSINESS CREDIT.—Sec-
14 tion 38(b) of the Internal Revenue Code of 1986 is amend-
15 ed by striking “plus” at the end of paragraph (14), by
16 striking the period at the end of paragraph (15) and in-
17 serting “, plus”, and by adding at the end the following
18 new paragraph:

19 “(16) the United States independent film and
20 television production wage credit determined under
21 section 45G(a).”.

22 (c) NO CARRYBACKS.—Subsection (d) of section 39
23 of the Internal Revenue Code of 1986 (relating to
24 carryback and carryforward of unused credits) is amended
25 by adding at the end the following:

1 “(11) NO CARRYBACK OF SECTION 45G CREDIT
 2 BEFORE EFFECTIVE DATE.—No portion of the un-
 3 used business credit for any taxable year which is
 4 attributable to the United States independent film
 5 and television production wage credit determined
 6 under section 45G may be carried back to a taxable
 7 year ending before the date of the enactment of sec-
 8 tion 45G.”.

9 (d) DENIAL OF DOUBLE BENEFIT.—Subsection (a)
 10 of section 280C of the Internal Revenue Code of 1986 is
 11 amended by inserting “45G(a),” after “45A(a),”.

12 (e) CONFORMING AMENDMENT.—The table of sec-
 13 tions for subpart D of part IV of subchapter A of chapter
 14 1 of the Internal Revenue Code of 1986 is amended by
 15 adding at the end the following new item:

“Sec. 45G. United States independent film and television produc-
 tion wage credit.”.

16 (f) EFFECTIVE DATE.—The amendments made by
 17 this section shall apply to amounts paid or incurred after
 18 the date of the enactment of this Act in taxable years end-
 19 ing after such date.

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